

REMARKS

Applicants respectfully request reconsideration of this application as amended. No have been amended, cancelled or added. Therefore, claims 1-27 are presented for examination.

35 U.S.C. § 103 Rejection

Claims 1, 6-11, 16-21 and 25-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pauls, U.S. Patent No. 5,983,382 ("Pauls") in view of Gerendai, et al., U.S. Patent No. 6,629,285 ("Gerendai").

Claim 1, in pertinent part, recites "sending an acknowledgment in response to one or more of a number of correctly received data packets equals a total number of data packets, and the number of correctly received packets equals the total number of data packets multiplied by a predetermined constant; in response to receiving the acknowledgement, ceasing to send additional parity packets; and in response to not receiving the acknowledgment, continuing to transmit the parity packets." (emphasis provided).

Pauls discloses if a cyclic redundancy code is passed, the receiver sends an ACK signal to the transmitter, but if the check is not passed, the transmitter sends one or more additional transmit packets, which are processed in a manner similar to the first transmit packet. (see Abstract). Pauls further discloses checking the data packet for accuracy and if the packet was accepted, an acknowledgement is sent to the transmitter. If the check does not pass, the receiver provides a transmission indication to the transmitter, and the transmitter receives the second transmit packet. (see col. 3, lines 18-25).

Applicants respectfully submit that Pauls does not teach or reasonably suggest number of correctly received data packets equals a total number of data packets, and the

number of correctly received packets equals the total number of data packets multiplied by a predetermined constant as recited by claim 1. Although Pauls teaches transmission of data packets and checking of the packet for accuracy, it does not teach or reasonably suggest the number of correctly received data packets equaling to a total number of data packets or the number of correctly received packets equaling the total number of data packets multiplied by a predetermined constant, as recited by claim 1. Applicants respectfully submit that to anticipate a claim, the reference must teach every element of the claim. (MPEP § 2131, see *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The Examiner relies on Gerendai for in response to receiving the acknowledgement, ceasing to send additional parity packets; and in response to not receiving the acknowledgment, continuing to transmit the parity packets (see claim 1). Pauls teaches *sending subsequent transmit packages* and does not teach or reasonably suggest ending the transaction upon the sender receiving a acknowledgement. (see col. 3, lines 18-25). Using Gerendai's mechanism with Paul would leave Pauls inoperable and thus the two references are not combinable as there is no motivation to combine them. Furthermore, Gerendai the receiver to transmit a *negative acknowledgement* message listing data packet with PSN=N. (see col. 4, lines 65-66 – col. 5, line 1). Gerendai's sending of a *negative acknowledgement* is not the same as not receiving the acknowledgement as recited by claim 1. In other words, a negative acknowledgement does not equal the absence of one. Accordingly, for at least the reasons set forth above, Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 1, 11 and 21 include limitations similar to those of claim 1. Accordingly, for at least the reasons set forth above, Applicants respectfully request the withdrawal of the rejection of claims 1, 11 and 21 and their dependent claims.

Claims 2-3, 12-13 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pauls in view of Gerendai and further in view of Luby, et al., U.S. Patent No. 6,307,487 ("Luby").

Claims 4-5, 14-15, 23 and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pauls in view of Gerendai and Luby and further in view of Brown, et al., U.S. Patent No. 6,366,622 ("Brown").

Claims 2-5, 12-15 and 22-24 depend from one of claims 1, 11 and 21 and thus include all the limitations of the base claim. Accordingly, for at least the reasons set forth above, Applicants respectfully request the withdrawal of the rejection of claims 2-5, 12-15 and 22-24.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: _____

01-24-06

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